

The background features abstract, overlapping green geometric shapes in various shades, creating a modern and professional look. The shapes are primarily triangles and polygons, some semi-transparent, layered against a white background.

# Initiative Petitions:

## Addressing Self-Dealing under the City Charter

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# The Nature of the Concern...

- ▶ The power of the municipal initiative petition could be used to allow a private individual or business to obtain access to public funds without being politically accountable to the citizens of Columbus.
  - ▶ Depending on the amount sought, even if done for a well-intended purpose, the action could result in the depletion of budgeted funds necessary to support essential city services.
  - ▶ Initiative petitions under the current city charter lack disclosure requirements for how these funds might be used and their potential impact upon the city budget, making a reasoned decision by the voter about whether or not to approve the measure for challenging than transparency would seem to dictate.
- ▶ Where petitioners seek to enact an initiated ordinance, the number of signatures needed to get on the ballot is fairly small (5% of total votes cast in last mayoral election) and susceptible to not being reflective of the community as a whole.
- ▶ Where petitioners seek to enact an initiated charter amendment, the number of signatures needed to get on the ballot is higher but still relatively small (10% of total votes cast) and the enactment requires a subsequent charter amendment to correct or repeal.

Columbus is not unique...  
the State has dealt with similar concerns



NATIONAL

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September 2, 2015 · 5:41 PM ET  
Heard on All Things Considered

# The Ohio Constitution Suggests Possible Remedies....

- ▶ **No laws shall be passed authorizing any** county, **city**, town or township, **by vote of its citizens, or otherwise**, to become a stockholder in any joint stock company, corporation, or association whatever; **or to raise money for, or to loan its credit to, or in aid of, any such company, corporation, or association**: provided, that nothing in this section shall prevent the insuring of public buildings or property in mutual insurance associations or companies. Laws may be passed providing for the regulation of all rates charged or to be charged by any insurance company, corporation or association organized under the laws of this state, or doing any insurance business in this state for profit.
- ▶ *Ohio Constitution, Article VIII, Sec. 6 (Eff. 1912)*

# The Possible Remedies...

- ▶ (B)(1) Restraint of trade or commerce being injurious to this state and its citizens, **the power of the initiative shall not be used** to pass an amendment to this constitution **that would grant or create a monopoly, oligopoly, or cartel**, specify or determine a tax rate, **or confer a commercial interest, commercial right, or commercial license to any person, nonpublic entity, or group of persons or nonpublic entities**, or any combination thereof, however organized, that is not then available to other similarly situated persons or nonpublic entities.
- ▶ *Ohio Constitution, Article II, Sec. 1e* (Eff. 2015)

# The Possible Remedies...

- ▶ (2) If a constitutional amendment proposed by initiative petition is certified to appear on the ballot and, in the opinion of the Ohio ballot board, the amendment would conflict with division (B)(l) of this section, the board shall prescribe two separate questions to appear on the ballot, as follows:
  - ▶ (a) The first question shall be as follows:
    - ▶ "Shall the petitioner, in violation of division (B)(l) of Section 1e of Article II of the Ohio Constitution, be authorized to initiate a constitutional amendment that grants or creates a monopoly, oligopoly, or cartel, specifies or determines a tax rate, or confers a commercial interest, commercial right, or commercial license that is not available to other similarly situated persons?"
  - ▶ (b) The second question shall describe the proposed constitutional amendment.
  - ▶ (c) If both questions are approved or affirmed by a majority of the electors voting on them, then the constitutional amendment shall take effect. If only one question is approved or affirmed by a majority of the electors voting on it, then the constitutional amendment shall not take effect.
  
- ▶ *Ohio Constitution, Article II, Sec. 1e (Eff. 2015)*

# Amending the Charter: Mirroring the Ohio Constitution

- ▶ Sec. 42-16 -
- ▶ A) Restraint of trade or commerce being injurious to this state and its citizens, including citizens of the City of Columbus, the power of the initiative shall not be used to pass an ordinance or an amendment to the city charter that would grant or create a monopoly, oligopoly, or cartel; specify or determine a tax rate; or confer a commercial interest, commercial right, or commercial license to any person, nonpublic entity, or group of persons or nonpublic entities, or any combination thereof, however organized, that is not then available to other similarly situated persons or nonpublic entities. **Article II, Sec. 1e**
- ▶ B) The power of the initiative shall not be used to pass an ordinance authorizing the city to become a stockholder in any joint stock company, corporation, or association of any kind; or to raise money for, or to loan its credit to, or in aid of, any private company, corporation, or association of any kind in such manner as to violate Article VIII, Sec. 6 of the Ohio Constitution. **Article VIII, Sec. 6**

# Mirroring...

- ▶ C) If an ordinance or constitutional amendment proposed by initiative petition is certified to appear on the ballot, and in the opinion of the City Attorney, the ordinance or amendment would conflict with division (A) or (B) of this Section, the City Council shall prescribe two separate questions to appear on the ballot, as follows:
  - ▶ a. The first question shall be as follows:
    - ▶ i. Where there is determined to be a conflict with division (A):
      - ▶ 1. For an initiated ordinance: "Shall the petition committee, in violation of division (A) of Section 42-16 of the Columbus City Charter, be authorized to initiate an ordinance that grants or creates a monopoly, oligopoly, or cartel, specifies or determines a tax rate, or confers a commercial interest, commercial right, or commercial license that is not available to other similarly situated persons?"
      - ▶ 2. For a charter amendment: "Shall the petition committee, in violation of division (A) of Section 42-16 of the Columbus City Charter, be authorized to initiate a charter amendment that grants or creates a monopoly, oligopoly, or cartel, specifies or determines a tax rate, or confers a commercial interest, commercial right, or commercial license that is not available to other similarly situated persons?"
    - ▶ ii. Where there is determined to be a conflict with division (B):
      - ▶ 1. For an initiated ordinance: "Shall the petition committee, in violation of division (B) of Section 42-16 of the Columbus City Charter, be authorized to initiate an ordinance that authorizes the city to become a stockholder in any joint stock company, corporation, or association of any kind; or to raise money for, or to loan its credit to, or in aid of, any private company, corporation, or association of any kind in such manner as to violate Article VIII, Sec. 6 of the Ohio Constitution?"
      - ▶ 2. For a charter amendment: "Shall the petition committee, in violation of division (B) of Section 42-16 of the Columbus City Charter, be authorized to initiate a charter amendment that authorizes the city to become a stockholder in any joint stock company, corporation, or association of any kind; or to raise money for, or to loan its credit to, or in aid of, any private company, corporation, or association of any kind in such manner as to violate Article VIII, Sec. 6 of the Ohio Constitution?"

# Mirroring

- ▶ b. The second question shall describe the proposed ordinance or charter amendment.
- ▶ c. If both questions are approved or affirmed by a majority of the electors voting on them, then the ordinance or charter amendment shall take effect. If only one question is approved or affirmed by a majority of the electors voting on it, then the ordinance or charter amendment shall not take effect.

# Amending the Charter: Create Greater Transparency

- ▶ Sec. 42-17 - Disclosure Requirements for Certain Initiative Petitions
- ▶ A) If a petition committee seeks to use the municipal power of the initiative to pass an ordinance or an amendment to the city charter that would grant or create a monopoly, oligopoly, or cartel; specify or determine a tax rate; or confer a commercial interest, commercial right, or commercial license to any person, nonpublic entity, or group of persons or nonpublic entities, or any combination thereof, however organized, that is not then available to other similarly situated persons or nonpublic entities in violation of Sec. 42-16(A) or if a petition committee seeks to use the municipal power of the initiative to pass an ordinance that authorizes the city to become a stockholder in any joint stock company, corporation, or association of any kind; or to raise money for, or to loan its credit to, or in aid of, any private company, corporation, or association of any kind in such manner as to violate Article VIII, Sec. 6 of the Ohio Constitution in violation of Sec. 42-16(B), such petition committee must make the following additional disclosures on each part petition submitted:

# Transparency

- ▶ 1) The name and address of each member of the petition committee;
- ▶ 2) The name and address of each person, nonpublic entity, or group of persons or nonpublic entities, or any combination thereof, who will receive or are intended to receive a commercial interest, commercial right, commercial license, or private commercial benefit of any kind under the initiated ordinance or charter amendment;
- ▶ 3) The amount of public money that each person, nonpublic entity, or group or persons or nonpublic entities, or any combination thereof, will obtain or is expected either to obtain or to have access to from the city in each of the first three fiscal years following the effective date of the initiated ordinance or charter amendment.

# Transparency

- ▶ B) The failure to disclose any information required in Section (A) on any part-petition, will result in the invalidity of all signatures contained on such part-petition;
- ▶ C) Strict compliance with this section is required pursuant to the obligations under Title 35 of the Revised Code;
- ▶ D) This provision preserves the authority conferred upon of the citizens of the City of Columbus granted under Article II Sections .01e and .01f and Article XVIII, Section 03 of the Ohio Constitution.

# Amending the Charter: Assure Reflective of Community

- ▶ Sec. 43. - Ordinance initiated by petition.
- ▶ The power to initiate an ordinance by petition is hereby reserved to the people of the city of Columbus. Any proposed ordinance may be submitted to the council by a petition signed by registered electors of the city equal to not less than five per cent of the total vote cast at the last preceding regular municipal election for mayor with said petitions bearing signatures from no less than five (5) of the nine (9) council districts equal to not less than two and one half percent (2.5%) of the total vote cast at the last preceding regular municipal election for mayor. Any such proposed ordinance shall comply, in all respects, with the requirements of this charter and applicable rules of council regarding ordinances.

# Community

- ▶ Sec. 45. - Charter amendments.
- ▶ Proposed amendments to this charter may be submitted to the electors of the city by a two-thirds vote of the council and such submission shall be by ordinance. Proposed amendments to this charter shall be submitted by the council forthwith upon a petition signed by electors of the city equal to not less than ten percent of the total vote cast at the last preceding regular municipal election with said petitions bearing signatures from no less than five (5) of the nine (9) council districts equal to not less than five percent (5%) of the total vote cast at the last preceding regular municipal election for mayor.

# Harmonize other Provisions

- ▶ Sec. 44. - Referendum initiated by petition.
- ▶ The power to initiate a referendum by petition on any ordinance, other than those ordinances listed herein, is hereby reserved to the people of the city of Columbus. Any proposed referendum may be submitted to the council by a petition signed by registered electors of the city equal to not less than five per cent of the total vote cast at the last preceding regular municipal election for mayor with said petitions bearing signatures from no less than five (5) of the nine (9) council districts equal to not less than two and one half percent (2.5%) of the total vote cast at the last preceding regular municipal election for mayor, and such petition shall be submitted within thirty days of final action by the council.
- ▶ Sec. 46. - The recall.
- ▶ Any elective officer provided for in this charter may be removed from office by recall petition. Such recall petition shall contain the signatures of not less than fifteen per cent of the number of electors who voted in the last preceding regular municipal election for mayor with said petitions bearing signatures from no less than five (5) of the nine (9) council districts equal to not less than seven and one half percent (7.5%) of the total vote cast at the last preceding regular municipal election for mayor. Except as herein otherwise provided, no petition for recall shall be filed within one-hundred-eighty days after a person takes office, or within ninety days preceding a regular municipal election for such office. No more than three elective officers may be subject to the recall at any election.